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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,633	03/30/2004	Koock Jung		3462
7590 09/14/2005				
ERNEST CUSICK 30 MARCEL ROAD CLIFFTON PARK, NY 12065				
			EXAMINER OKEZIE, ESTHER O	
			ART UNIT 3654	PAPER NUMBER

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/812,633

Applicant(s)

JUNG, KOOCK

Examiner

Esther O. Okezie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/30/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement filed 3/30/2004 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

The list provided on the PTO-1449 is unacceptable because it is illegible.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1,2,6-14,18 rejected under 35 U.S.C. 102(b) as being anticipated by Lee.
2. Re claim 1, Lee discloses an animal waste collection device for collecting waste into a bag without soiling a user of the animal waste collection device, the animal waste

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collection device comprising: an elongated handle (2), the elongated handle comprising an actuator assembly (figs 2 and 3) at one end of the elongated handle; a pick-up and collection device (40) disposed at an end of the elongated handle from the actuator assembly, the pick-up and collection device comprising movable collection members (4a,4b) and an elongated base member (41), the movable collection members being movably connected to the elongated base member, the elongated base member being fixed to the handle of the animal waste collection device (figs 1-6); a linkage (6) operably connected at a first end to the actuator assembly and extending between the actuator assembly and extending between the actuator assembly and the pick-up device; a transmission element (pivot pin 8 with legs 45,46) operably connected to the linkage at the pick-up and collection device, the transmission element also being operably connected to the movable collection members for transmitting movement from the actuator assembly, through the linkage and the transmission element to each of the closure members to move each of the movable collection members between open and closed movable collection members positions (figs 2 and 3); and wherein the pick-up and collection device is adapted to receive a bag (9) for receiving and storing animal waste collected by the waste collection device; wherein the open end of the bag can be secured to the pick-up and collection device to provide access to an interior of the bag when the actuator assembly moves the movable collection members to an open position for collecting waste, further wherein the animal waste collection device can collect waste without soiling a user of the animal waste collection device nor soiling the animal waste collection device (fig 6).

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3. Re claim 2, each of the movable collection members are connected to the elongated base member in a pivoting movable configuration by at least one pin (8).
4. Re claim 6, the linkage comprises a linkage extension (6) that leads from the transmission element to the closure member, wherein movement of the linkage can be transmitted to the linkage extension to move the closing members (see figs 2 and 3).
5. Re claim 7, the actuator assembly is movable from a first position that corresponds to a closed position of the pick-up and collection device to a second position that corresponds to the open position of the pick-up and collection device (figs 2 and 3).
6. Re claim 8, the actuator comprises a latch (34) to hold the actuator assembly in the first position.
7. Re claim 9, the actuator assembly comprises a button (61) that is movable in a slot (51) in the actuator assembly between the first and second positions.
8. Re claim 10, the actuator assembly comprises a lever (62) that is movable between first and second positions.
9. Re claim 11, biasing elements (33 and 75) to bias the movable collection members to a closed position.
10. Re claim 12, the bag (90) comprises a complementary configuration to the pick-up and collection device (fig 6).
11. Re claim 13, at least one pin extends from one side of the pick-up and collection device to the other side (fig 4).

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12. Re claim 14, each pin comprises at least one unit that is molded with one of the movable collection members or the elongated base member and then fit with the movable collection members or the elongated base member (fig 4).

13. Re claim 18, the elongate base member comprises a generally cylindrical elongated base member (fig 4).

14. Claims 1,7,19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hennessey.

15. Re claim 1, Hennessey discloses an animal waste collection device for collecting waste into a bag without soiling a user of the animal waste collection device, the animal waste collection device comprising: an elongated handle (16), the elongated handle comprising an actuator assembly (figs 5 and 5) at one end of the elongated handle; a pick-up and collection device (10) disposed at an end of the elongated handle from the actuator assembly, the pick-up and collection device comprising movable collection members (22,24) and an elongated base member (33), the movable collection members being movably connected to the elongated base member, the elongated base member being fixed to the handle of the animal waste collection device (fig 2); a linkage (20) operably connected at a first end to the actuator assembly and extending between the actuator assembly and extending between the actuator assembly and the pick-up device; a transmission element (pivot pin 36) operably connected to the linkage at the pick-up and collection device, the transmission element also being operably connected to the movable collection members for transmitting movement from the actuator

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assembly, through the linkage and the transmission element to each of the closure members to move each of the movable collection members between open and closed movable collection members positions (figs 4,5); and wherein the pick-up and collection device is adapted to receive a bag (B) for receiving and storing animal waste collected by the waste collection device; wherein the open end of the bag can be secured to the pick-up and collection device to provide access to an interior of the bag when the actuator assembly moves the movable collection members to an open position for collecting waste, further wherein the animal waste collection device can collect waste without soiling a user of the animal waste collection device nor soiling the animal waste collection device (fig 4,5).

16. Re claim 7, the actuator assembly is movable from a first position that corresponds to a closed position of the pick-up and collection device to a second position that corresponds to the open position of the pick-up and collection device (figs 4,5).

17. Re claim 19, the actuator comprises a lever (70), a lever linkage (20) and a linkage sliding holder (14) wherein the lever comprises an elongated curved member (18) with a contact surface that a user of the animal waste collection device will grasp and move to move the movable collection, the lever linkage connects the lever to the sliding holder to impart movement to the movable members to open and close the movable collecting members.

18. Re claim 20, the lever comprises a pivot pin (56) that extends through the lever and into the handle (figs 1 and 3), so that the pivot pin is held stationary with respect to

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the handle, an intermediate portion of the lever comprises another aperture through which a further pivot pin is inserted and is connected to the lever linkage, and wherein the sliding holder comprises the ends of the linkages, so, the ends of the linkages will move and impart movement to the movable collection members to open and close the movable members (figs 4 and 5).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 3,4,5,15,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Krogstad et al.

20. Re claim 3,4,5 Lee does not disclose the movable collection members is connected to the elongated base member by at least one biasing member. Krogstad et al. discloses a refuse collecting device including a spring (52) along a pivot pin (50) and attached to a moving collection arm (34) and stationary base member (26) by spring legs (54,56). It would have been obvious to one of ordinary skill in the art to modify the device of Lee as taught by Krogstad et al to include a biasing member on the pivot pin connecting the movable members in order to resiliently move and bias the movable members with respect to the pivot pin.



21. Re claim 15, Lee discloses each movable collection member comprises a generally flat planar side an angled connection side, an elongated side, and a collection side (figs 1-3), and the movable collection members and the elongated base member are configured, so that when the animal waste collection device is in the closed position to form a substantially closed unit with openings at ends of a longitudinal axis of the pick-up and collection device (fig 4).

22. Re claim 16, Lee does not disclose the generally flat planar side of the movable collection member comprising a set of slots that cooperate with tabs and cutouts in the elongated base member. Krogstad et al discloses slots and cutouts along bride wall (42) and cooperating tabs (28) and (44). It would have been obvious to one of ordinary skill in the art to modify the device of Lee as taught by Krogstad et al to provide cutouts, slots, and tabs for retaining the springs on the pins during movement of collection members.

23. Re claim 17, Lee does not disclose the movable collection members is connected to the elongated base member by at least one biasing member. Krogstad et al. discloses a refuse collecting device including a spring (52) along a pivot pin (50) and attached to a moving collection arm (34) and stationary base member (26) by spring legs (54,56). It would have been obvious to one of ordinary skill in the art to modify the device of Lee as taught by Krogstad et al to include a biasing member on the pivot pin connecting the movable members in order to resiliently move and bias the movable members with respect to the pivot pin.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (571) 272-8108. The examiner can normally be reached on Mon-Thurs 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine A. Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EOO



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